HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

W.P. No.25808 of 1998

19.6.2007

Between

The Depot Manager, A.P.S.R.T.C., Sangareddy Bus Depot ..Petitioner

AND

M.Srinivas and another ..Respondents

:: JUDGMENT ::

HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

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W.P. No.25808 of 1998

The management of the A.P.S.R.T.C. preferred this writ petition calling in question the correctness and validity of the Award passed by the Labour Court II, Hyderabad in I.D.No.114 of 1994 which was instituted by the first respondent who was working as a Conductor raising the dispute relating to his removal from service, inflicted as a measure of punishment on him on 25.9.1992. These orders of removal passed by the Depot Manager, Sangareddy were confirmed by the Divisional Manager, Sangareddy Division in Appeal on 26.8.1993. The first respondent was recruited to the service of the A.P.S.R.T.C. on 10.4.1988 and while he was conducting the bus plying on the route between Warangal to Sangareddy on 19.5.1992, it has been subjected to a surprise check by the inspecting officials of the Corporation. They have found certain cash and ticket irregularities committed by the first respondent- Conductor. In that, he had collected fares from the passengers, but failed to issue the tickets and thus made an attempt to appropriate the revenue of the Corporation for himself. Apart from this allegation, the first respondent is alleged to have misconducted himself with the Traveling Ticket Inspectors. In these set of circumstances, two specific charges, one relatable to the ticket and cash irregularities committed by the first respondent and another relatable to the alleged mis-behaviour of the first

respondent, were framed. Since the Corporation is not satisfied with the explanation offered, an Enquiry Officer has been appointed and before the Enquiry Officer, witnesses have been examined. It will be relevant to point out the finding dealing with the second charge. The explanation of the Conductor is that he had not misbehaved with the T.T.Is. and on the other hand, he had quietly signed on all the pages of the Check Report of the officials and therefore, the allegation that he had misbehaved with the T.T.Is., is an incorrect allegation leveled against him. The Enquiry Officer has found that the stand of the Conductor as is reflected by the signatures found on the Check Report, would lend credibility to the explanation offered by him, particularly when the T.T.Is. during the course of their deposition before the Enquiry Officer, have merely stated that the Conductor created some difficulties for them to complete their job. But inspite of the same, the Enquiry Officer found the first respondent guilty of this charge also.

If the bus conducted by the first respondent is subjected to a check by the T.T.Is. and particularly when the same is likely to result in serious consequences, the Conductor of the bus is expected to take all necessary precautions before the checking officials draw their report. The precautions adopted by the Conductor so long as they are moderate and bear the approved conduct on his part, cannot be characterized as misconduct. The moment, the check has been undertaken, a Conductor of the bus is not expected to surrender himself to the dictates of the T.T.Is., He is entitled to demonstrate his bonafides. Therefore, any such attempt made on the part of the Conductor cannot be perceived as a misconduct when it has not been

reported by the T.T.Is., that the behaviour of the Conductor was either rude or crude towards them. Therefore, I am not able to subscribe to the findings recorded by the Enquiry Officer with regard to the charge No.2 in particular.

With regard to charge No.1, the material gathered during the course of enquiry had demonstrated fully that the first respondent is guilty of having collected fares from a set of passengers, but had failed to issue the tickets to them and in the process, there is an attempt to appropriate Rs.12/- so collected from the passengers by the first respondent Conductor. Such acts of display of lacking integrity on the part of the Conductors cannot be taken, too kindly by the State owned Corporation like the A.P.S.R.T.C., for, its very survival and sustenance in a competitive environment is dependant upon the revenues generated by it, one of the principal sources being the collection of fare amount from the passengers who use the infrastructure belonging to the Corporation. Therefore, if the Conductors, whose primary and fundamental duty is not only to collect the correct fare from the passengers, but also to tender the tickets appropriately to them, have made any attempt to let down the Corporation, they are liable to be dealt with sternly. The interests of the Corporation are liable to be conceived as more paramount than that of the individual Conductors. But however, at the same time, one has got to be conscious of the fact that in the process of issuing the tickets, some times, due to operational difficulties, some delay might occur. In the process, if the inspecting officials check the bus, they would be reasonable in drawing an unexceptionable conclusion to the extent of non issuing the tickets for the fares collected.

Therefore, the totality of the circumstances has got to be taken into consideration and account and weighed carefully before the punishment is imposed.

As is well known, Section 11 A of the Industrial Disputes Act has conferred powers of discretion to be exercised by the Industrial Tribunals/ Labour Courts. In the instant case, the first respondent workman had been imposed the punishment of removal from service as on 25.9.1992. The Award came to be passed on 6.8.1996, i.e. nearly four years subsequent thereto. Therefore, the power has been properly exercised by the Labour Court while ordering reinstatement of the first respondent workman back into service and at the same time the Labour Court tried to balance the matter by denying the back wages. Ultimately, the first respondent Conductor came to be re-inducted into service after more than five years from the date of his removal and thus, in effect, he had been denied wages for long years, which itself will work as a constant reminder for the first respondent not to repeat similar kinds of misconduct. I therefore find it difficult to characterize the exercise of discretion on the part of the Labour Court as wholly irrational or arbitrary in the instant case. Therefore, I do not find any reason to interfere with the Award passed by the Labour Court and accordingly, the writ petition is dismissed, but however, without costs.

NOOTY RAMA MOHANA RAO.J.

19.6.2007
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